

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LuckyBill Nugent,

Case No. 18-cv-0827 (WMW/LIB)

Petitioner,

v.

**ORDER ADOPTING AS MODIFIED
REPORT AND RECOMMENDATION**

Warden R. Marques,

Respondent.

This matter is before the Court on the June 8, 2018 Report and Recommendation of United States Magistrate Judge Leo I. Brisbois. (Dkt. 17.) The Report and Recommendation determines that the Court lacks subject-matter jurisdiction over Petitioner LuckyBill Nugent's petition for a writ of habeas corpus and, for that reason, recommends dismissing this action with prejudice. No objections to the Report and Recommendation have been filed. In the absence of timely objections, this Court reviews a Report and Recommendation for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam).

Having conducted its review, the Court finds no clear error with the determination of the Report and Recommendation that the Court lacks subject-matter jurisdiction to address Nugent's claims. But because the Court lacks subject-matter jurisdiction, the dismissal of this action must be *without* prejudice. *See Hart v. United States*, 630 F.3d 1085, 1091 (8th Cir. 2011) (modifying district court's dismissal to be without prejudice

because the district court lacked subject-matter jurisdiction and collecting cases). The Court amends the Report and Recommendation accordingly.

Based on the Report and Recommendation and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. The June 8, 2018 Report and Recommendation, (Dkt. 17), is **ADOPTED AS MODIFIED**;
2. Petitioner LuckyBill Nugent's petition for a writ of habeas corpus, (Dkt. 1), is **DENIED**; and
3. This action is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 1, 2018

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge